DOCUMENT RESUME

ED 202 298 HE 013 806

AUTHOR	Bender, Louis W.
TITLE	Licensing/Approval Organization Structure for the Fifty States Covering Private and Proprietary Degree Granting and Non-Degree Granting Institutions.
INSTITUTION	Education Commission of the States, Denver, Colo. Inservice Education Program.; State Higher Education Executive Officers Association.
SPONS AGENCY	Kellogg Foundation, Battle Creek, Mich.
REPORT NO	IEP-004
PUB DATE	Jul 76
NOTE	18p.; Paper presented at a Seminar for State Leaders in Postsecondary Education (Keystone, CO, July 1976).
EDRS PRICE	MF01/PC01 Plus Postage.
DESCRIPTORS	*Agency Role; Certification; Degrees (Academic); Eligibility; Higher Education; Institutional Evaluation; *Private Colleges; *Proprietary Schools; State Agencies; *State Boards of Education; *State Departments of Education; *State Licensing Boards; *State Standards
IDENTIFIERS	*Seminars for State Leaders Postsec Ed (ECS SHEEO)

ABSTRACT

The organizational structure of the various state licensing and/or approving agencies was investigated. Three broad organizational types that had licensing/approval authority for degree-granting and nondegree-granting private institutions were identified: the state board (or department) of education type, the state board (or department) of higher education type, and the separate state agency type. Four states had vested no authority to any state agency for licensing or approving private or proprietary degree-granting and nondegree-granting institutions as of January 1976. Thirty-three states vested licensing or approving authority with the state board of education for nondegree-granting proprietary institutions. Eleven of these states also placed licensing or approving authority for degree-granting private and proprietary institutions in the department of education. Nineteen states placed the licensing of or approving authority for private degree-granting institutions with the department of higher education. Five of these states also empowered the same departments with approval of nondegree-granting institutions. Ten states placed authority for licensing or approval with entirely separate state agencies. For each state all of this information is provided in tabular form. Trends indicated by the overall investigation include the following: historically authority to approve nondegree-granting institutions resided primarily with the state board of education, which tended to be designated as the state board for vocational education; and during the 1950s and early 1960s there was a trend toward renaming state boards and departments of public instruction to encompass both public and private education. (SW)

ED202298

Inservice Education Program (IEP)

Paper Presented at a Seminar for State Leaders in Postsecondary Education

LICENSING/APPROVAL ORGANIZATION STRUCTURE FOR THE FIFTY STATES COVERING PRIVATE AND PROPRIETARY DEGREE GRANTING AND NON-DEGREE GRANTING INSTITUTIONS

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LOUIS W. BENDER

Professor of Higher Education
The Florida State University

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Keystone, Colorado
July 1976

IEP Paper No. 004

NE 013 706

Education Commission of the States

Inservice Education Program (IEP)
Education Commission of the States
1860 Lincoln Street, Suite 300
Denver, Colorado 80295

SHEEO

The IEP Program has been supported primarily by the W. K. Kellogg Foundation with additional funds from the Education Commission of the States, the Frost Foundation and the State Higher Education Executive Officers

Keystone Staff Development Workshop
for State Licensing/Approval Officials

Keystone Lodge--Keystone, Colorado
July 18 - July 23, 1976

"Licensing/Approval Organization Structure for the Fifty States Covering Private and Proprietary Degree Granting and Non-Degree Granting Institutions"

by Louis W. Bender
Professor of Higher Education
The Florida State University

When I was asked to investigate the problem of organizational structures for the various state licensing and/or approving agencies, I felt a little bit like the young lady who was caught in an embarrassing situation. This young lady had been driving across the country on a hot August day when the humidity was high and the wind velocity was low. She was riding in a car without air conditioning and thus she could not but experience fatigue and discomfort as the long hours passed by. Unfortunately she was not in an area as dry as the Colorado Rockies' climate but rather in the hill country of Arkansas. Finally, feeling great discomfort, she happened to see what appeared to be an isolated lake off the main road some distance from where she was driving. Seeking relief from the heat, she turned off the main highway onto a secondary road and proceeded toward the distant lake. As she drove up to it and parked, she observed that it was, in fact, very isolated and there was no sign of any habitation at all. Thus, as she sat there looking

at the inviting cool blue waters, she finally yielded to an urge to partake of the beauty of the waters in spite of the fact that she had no bathing suit.

While in the water and thoroughly enjoying herself, she happened to look up toward shore and suddenly realized that a man stood on the shore between her and her clothing. At first she attempted to hide from his vision but it became clear that he knew she was in the water. After a while she called to him and asked if he would please leave the area. He said nothing and continued to stand there. She then admitted her predicament and pleaded with him as a gentleman to leave the area. Again he said nothing but continued to stand there. In desperation she berated him and challenged him as a gentleman to have the courtesy of turning his back or leaving. Still, he continued to stand and said nothing. As she pondered what to do, she happened to look down into the water and saw an old wash tub on the lake bottom. Grasping the wash tub and holding it in front of her as a shield, she proceeded toward the man and her clothing and said to him, "Do you know what I think?".... Without hesitation he responded, "Yes, you think there's a bottom in that tub".

Well, it seemed to me that I was confronted with the problem of putting a bottom in the tub of the organizational structure and patterns for the states which was not going to be easy. As I proceeded to address the problem, I discovered, in fact, it was not easy either.

The Problem

The problem I sought to handle was the relationship of the licensing and/or approving agency to other units of state government. The structure as well as the authority of the agency would relate to its power and to the significance of its function among other social services of state government. In addition, an attempt was made to discover any patterns or trends which might be detectable from either the nature of the organization or its emerging suthority.

Investigation Procedure

The procedure I used in investigating the state structures was to go through all of the state legislation and regulations which were sent to Wayne Freeburg's office as a result of the requests sent to all states by the Florida Board for Independent Colleges and Universities and the Center for State and Regional Higher Education at Florida State University. Since we did not have returns from all fifty states, this data base was augmented with publications of the Education Commission of the States and the book by M. M. Chambers, titled Higher Education in the Fifty States. The most helpful document was the most recent publication of the ECS Postsecondary Education Department titled State Postsecondary Education Profiles Handbook, Report #88 and dated April, 1976.

All state statutes and regulations were read and organization charts, where provided, were reviewed. A grid was

developed whereby classifications could be made of the various organization types. A Table reflecting the grid can be found on page 11 of this paper.

Organizational Types

While the titles of the various state agencies vary considerably from state to state, it is possible to identify three broad organizational types which exist for licensure and approval of private degree and non-degree granting institutions. Those three types are the State Board (or Department) of Education type; the State Board (or Department) of Higher Education type; and the separate State Agencies type. Under the State Board of Education type, we find authority vested by the legislature in the State Board and its Department of Education to develop regulations and standards for the licensure or approval of degree granting and/or non-degree granting private institutions, both non-profit and profit oriented. In a few states such as Idaho, Pennsylvania and Rhode Island, the State Board is a single unitary board having jurisdiction over elementary and secondary as well as higher education. In most other states, however, the State Board of Education has its primary responsibility for elementary and secondary education and, in many cases, serves as the State Board of Vocational Education as well. It is interesting to note the trend to change the name of the earlier Departments of Public Instruction to that of Department of Education, denoting, in most cases, the broadening of jurisdiction to encompass private and proprietary education

within the scope of responsibility and authority.

The second broad type of state agency could be described as Boards of Higher Education with their Departments of Higher Education functioning as the administering arm. Typically, the Department of Higher Education is separate from the state Department of Education and has jurisdiction over all of public postsecondary education, and in some cases, also has been charged with responsibility for all private degree granting institutions. Many of the states assigning responsibility for proprietary degree-granting institutions to the Department of Higher Education have done so within the last five years as can be seen in the Table on page 11.

The third broad type of agency identified in this study has been classified as "separate state agency" since it is not rooted in either the Department of Education or the Department of Higher Education. In a few cases, the separate agency is housed under the Department of Education or the Department of Higher Education; however, employment of the executive director and staff is independent and handled by the separate state board for licensing or approving. As will be noted later, some of these separate state agencies do not have any relationship with an educational agency within the state but report to some non-educational authority, usually related to the registration or regulatory function of the state.

Roll Call of the States

Based on the documents reviewed, there were four states as of January, 1976, which have vested no authority to any state agency for licensing or approving private or proprietary degree granting and non-degree granting institutions. Those four states are Missouri, Nebraska, Utah, and Washington. There is proposed legislation pending in the state of Washington which would place the authority with the new Council for Postsecondary Education which has also been designated as the 1202 Commission in addition to its state-level coordination responsibilities. In the state of Missouri, while no state agency is authorized to approve or license, the function is carried out by the Secretary of State who exercises the authority to charter new institutions. There was no information on whether the office of the Secretary of State assumes any responsibility for developing regulations and criteria for applicant institutions, however.

State Department of Education: Thirty-three different states vest licensing or approving authority with the State Board of Education for non-degree granting proprietary institutions. Eleven of these states also place licensing or approving authority for degree granting private and proprietary institutions in the Department of Education. Included among these are Alaska, Delaware, Georgia, Illinois, Kansas, Maryland, Michigan, Pennsylvania, Rhode Island, Vermont, and Wyoming. In the state of Illinois, the State Department of Registration and

Education must also approve licensure or approval of degree granting proprietary institutions in addition to the Department of Education. Six of the thirty-two states which authorize the Department of Education to license or approve non-degree granting institutions have no provision for licensing or regulating private degree granting institutions. Those states which were reported as having no such authority are Alabama, Idaho, Iowa, Louisiana, North Dakota, and South Carolina. In Colorado, the State Department of Education has limited powers and the approval and licensing authority is vested with the State Board of Community Colleges which also is the Colorado State Board for Vocational Education. Since it is located outside the Department of Education as a separate agency, Colorado is listed under the third category on the Table on page 11.

State Department of Higher Education: Nineteen states place the licensing of or approving authority for private degree granting institutions with the Department of Higher Education. Five of these states also empower the same departments with approval of non-degree granting institutions. Among these five are Connecticut, Massachussetts, Montana, New Mexico, and Tennessee. This is very few, where non-degree granting institutions come under the purview of the Department of Higher Education. In addition to the authority vested with the Tennessee Higher Education Commission, a second agency is involved in the licensing and approving process. This is the

Tennessee Commission on Postsecondary Vocational Educational Institution Authorization which must coordinate with the Higher Education Commission. In Montana, the law provides that the Department of Business Regulation also participate in licensing of non-degree and degree granting private and proprietary institutions as well as the Montana Board of Regents of Higher Education.

In 1972, the state of Kentucky empowered its Council on Public Higher Education to license and approve private and proprietary degree granting institutions in spite of its title. It should be noted that the states vary in the titles used for their higher education agency and in many cases have renamed the agency in order to move away from the earlier public higher education nomenclature to encompass all of higher education. In Minnesota, the name of the board was changed to the Higher Education Coordinating Board and in 1975 was given authority over degree granting proprietary and private institutions. New Hampshire renamed its state-level board the Postsecondary Education Commission. The structure of these states generally is for two separate state-level agencies responsible for education. One is the State Board of Education responsible for elementary and secondary (and in most instances vocational education as well) while the State Board for Higher Education is separate and apart with its line of authority stemming directly from the legislature or the Governor's office.

Separate State Agency: Ten states place authority for licensing or approval with entirely separate state agencies. In the case of Tennessee, the Commission on Postsecondary Vocational Educational Institution Authorization works in conjunction with the Tennessee Higher Education Commission and thus has shared authority. Seven other states vest authority over both non-degree granting institutions and degree granting private and propietary institutions to separate agencies. These states include California, (the Bureau of School Approvals); Colorado (the State Board of Community Colleges); Florida; Indiana (the State School Accrediting Commission); Nevada (the Commission on Postsecondary Education Authorization); South Dakota (the Postsecondary Regulatory Agency); and Wisconsin (the Educational Approval Board within the State Board of Vocational, Technical and Adult Education). In Florida, two separate state agencies are involved with the State Board of Postsecondary Vocational, Technical and Trade Schools responsible for non-degree granting institutions and the State Board of Independent Colleges and Universities responsible for degree granting private and proprietary institutions.

In Arizona, the State Board of Private, Technical and Business Schools has licensing power over non-degree granting institutions but that state has no licensure or regulations covering private degree granting institutions. It should be noted that Arizona does have proposed legislation pending which would follow the model legislation of the Education Commission

of the States. In Hawaii, the State Department of Regulatory Agencies approves and licenses private and proprietary degree granting institutions while the jurisdiction over non-degree institutions resides with the state Department of Education. Similarly, in Maine non-degree granting resides with the state Department of Education while degree granting jurisdiction resides with the Department of Educational and Cultural Services which recommends approval to and by the legislature. In reality, therefore, the legislature in Maine is the direct authorizing agency for private and proprietary degree granting institutions.

TABLE

Licensing/Approval Organization Authority for the Fifty States Covering Private & Proprietary Degree Granting and Non-Degree Granting Institutions.

	State Board of Education		Dept. of Higher Education		Separate State Agency	
State	Non-Deg.	Degree	Non-Deg.	Degree	Non-Deg.	Degree
Ala.	X	*				
Alaska	X	X				
Ariz.			St. Board of Priv. Tech. & Bus. Schools		X	* +
Ark.	X			X ('71)		
Calif.			Bureau of School Approvals		X	X
Colo.			St. Bd. of Community Colleges		X	X
Conn.			X	X		
Del.	X	X				
Fla.					X	X
Ga.	X	X				
Hawaii	X		St. Dept. of Regulatory Agencies			X
Idaho	X	*				
Ill.	X	X	(Plus St. Dept. of Registration & Education)			
Ind.			Priv. Sch. Accredit. Commission		X	X
Iowa	X	*				
Kansas	X	X				
Ky.	X			X ('73)		
La.	X	*				
Me.	X					X
Md.	X	X	+	+		
Mass.			X	X		
Mich.	X	X				
Minn.	X			X ('75)		

* No state provision for licencing approval or regulations

\+ Proposed new legislation pending

State	State Board of Education		Dept. of Higher Education		Separate State Agency	
	Non-Deg.	Degree	Non-Deg.	Degree	Non-Deg.	Degree
Miss.	X			X		
Mo.	*None (Sect. of State exercises authority to charter)					
Mon.			X	X (Thru Dept. of Bus. Regulation)		
Neb.	*None					
Nev.		Commission on Postsec. Ed. Authorization			X	X
N. H.	X			X ('73)		
N. J.	X			X		
N. Mex.			X	X		
N. Y.	X			X		
N. C.	X			X ('72)		
N. Dak.	X	*				
Ohio	X			X		
Okl.				X	X	Bd. of Private Sch.
Oreg.	X			X		
Penn.	X	X	(Attorney General also commerce/trade reg.)			
R. I.	X	X				
S. C.	X	*				
S. Da.			Postsec. Regulatory Agency		X	X
Tenn. (Two)			X	X	(With Tenn. Comm. on H.S. Ed. Inst. Rat	
Tex.	X			X		
Utah	*None					
Ver.	X	X				
Va.	X			X		
Wash.	*None		+	+		
W. Va.	X			X		
Wis.			Educ. Approval Board		X	X
Wy.	X	X				

Organizational Patterns

When reviewing the organization structure among the fifty states, several patterns or trends seem to present themselves. First, it would appear that historically authority to approve non-degree granting institutions resided primarily with the State Board of Education. That agency tended also to be designated as the State Board for Vocational Education. Since most non-degree granting proprietary institutions are vocational in nature, it was logical, therefore, for licensing and approval responsibilities to be placed with the State Board of Education.

As noted earlier, however, many of these states had initially provided only for State Boards of Public Instruction and therefore some changes had to be made in order to encompass the private and independent institutions. During the fifties and early sixties, a trend toward renaming the State Boards and Departments of Public Instruction to encompass both public and private education developed. By far, most states (33 of the 50 states) vest authority for licensing and approving non-degree granting private and proprietary schools to the State Board of Education. Some states even broadened the level of jurisdiction and encompass higher education as well as elementary and secondary education under the purview of the State Board of Education. Pennsylvania is an example where non-degree institutions come under the jurisdiction of the Commissioner of Basic Education while degree granting institutions come under the Commissioner of Higher Education but both serve in the Department

of Education under the Secretary of Education since that state has a single State Board of Education responsible for pre-school through graduate-level education.

The contemporary pattern of creating a state-level governing or coordinating board for higher education can be seen in the large number (19) of states which give jurisdiction for licensing and approving of degree granting institutions to the State Board of Higher Education and its counterpart the Department of Higher Education. This is a most recent development, however, seen in the fact that authorization came in Arkansas in 1971, in Kentucky and North Carolina in 1972, in New Hampshire in 1973, and in Minnesota in 1975.

Recognition of the profit motive orientation of the proprietary institutions can be seen in the separate agencies developed in some states with authority related to regulation of trade and business. In Pennsylvania the Attorney General's Office assumes responsibility for registering all proprietary institutions as part of its responsibility for consumer protection, as well as trade and commerce regulation. In Montana, the Department of Business Registration participates in addition to the Montana Department of Higher Education. A similar dual relationship exists in Illinois where the Department of Registration and Education serves one function while the State Board of Education serves another function in the licensing and approving process. Of interest is the fact that many of the separate state agencies report directly to the Governor and are

independent of any other governmental agency. This is true in Arizona, California, Hawaii, Indiana, Nevada, Oklahoma and South Dakota. It should also be noted that proposed legislation covering licensing and approval of organization structure and authority is pending in Arizona, Maryland and Washington.

Investigations and Research

One clue of the authority and jurisdiction of an organization is the functions it carries out. In order to determine whether the states have assumed responsibilities for research and investigation into private and proprietary degree and non-degree granting institutions, a review of the documents of all fifty states was made as published in the Education Commission of the States State Postsecondary Education Profiles Handbook. Only five states had any publications which would be relevant to this study. Two of the states had publications which were primarily oriented toward assisting potential students in understanding the educational opportunities available. They were Maryland, which published A Survey of Maryland's Proprietary Postsecondary Educational Institutions in December of 1975 primarily aimed toward college administrators and high school counselors. New York annually publishes a similar document aimed toward assisting potential students which is titled: A Guide to Educational Programs in Non-Collegiate Organizations. California and North Carolina developed documents which are primarily aimed at the private institutions and the legislature. California

published a study titled: Private Postsecondary Education in California in June of 1976 while North Carolina developed a document titled: Rules and Standards for Licensing Non-Public Educational Institutions to Confer Degrees. Louisiana and California have included private and proprietary institutions in recent documents which are generally described as covering all of postsecondary education. In October of 1975, Louisiana published its Postsecondary Education in Transition: Planning for Change in Louisiana, while the state of California in April of 1976 published a document titled: Fund for Innovation which the California Postsecondary Education Commission apparently addressed to the field in general.

It is noteworthy, and somewhat discouraging, to find that not one of the fifty states reported any future studies or research planned to encompass private and proprietary degree and non-degree granting institutions when responding to the Education Commission of the States survey. It would appear that we are in the very early stages of an increasingly important function of state-level involvement in licensing and approving of postsecondary education institutions. It is unclear, however, whether the locus of licensing/approving authority is moving toward the state higher education agencies or to separate non or quasi education agencies.